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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,199	03/29/2004	John J. Park	1022-2	5156
7590	08/04/2005		EXAMINER	
THE MARTINEZ GROUP PLLC/ Mark Sgantzos Suite 1-D 55 Poplar Street Brooklyn, NY 11201-6930			WONG, STEVEN B	
			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 08/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/813,199	PARK, JOHN J.	
	Examiner	Art Unit	
	Steven Wong	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-5,7-10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-5,7-10 and 12-14 is/are rejected.
- 7) Claim(s) 15 and 16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification fails to describe the wire support as comprising a “fold”. Pages 3 and 6 of the specification describe element 10, however, it is only described as a “bend” and not a “fold”.

Claim Rejections - 35 USC § 102

2. Claims 1, 3, 4, 10 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wei (6,500,077). Attention is directed to the bases for the rejections set forth in the Office Action mailed February 25, 2005. Regarding the added limitation to claims 1 and 10, Wei provides a series of bends in the wire for attaching to the golf seat (4). Attention is directed to the attached definition for “fold” stating that a fold is “a coil or bend, as of rope”. Therefore, one of the bends in the rope is seen as a fold. Regarding the limitation for four sets of bends forming a strike portion and a spoon shape portion, immediately after the spring Wei provides two sets of bends for the support. Further, the set of springs provide a series of bends for the wire support. Note specifically, the inset picture and dotted lines of Figure 10 and the examiner’s notations provided herewith. Immediately before and after the springs are bends for the wire support.

Claim Rejections - 35 USC § 103

3. Claims 5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wei (6,500,077) in view of Robbie (5,672,118). Attention is directed to the bases for the rejections set forth in the Office Action mailed February 25, 2005. Regarding the added limitation to claim 5, attention is directed to the rejection of claims 1 and 10 above.

Allowable Subject Matter

4. Claims 15 and 16 appear to read over the prior art of record.

Response to Arguments

5. Applicant's arguments filed may 23, 2005 have been fully considered but are not deemed to be persuasive. Regarding the reference to Wei and claims 1-4 and 10-14, the applicant argues that the arm (3) of Wei does not deform and thus, cannot be termed a strike portion. The applicant adds that the wire does not define a spoon shaped portion supporting a golf ball. However, this is not persuasive as the claim is silent as to any particular structural limitations for the strike portion in terms of its deformation. Also, the specification does not describe the strike portion in any definitive terms. The applicant's argument is based on the intended use of the arm which use is not specifically set forth in the claims. Simply because the arm is not intended to deform due to the springs does not preclude the arm from being termed a strike portion. The applicant appears to rely on his own interpretation of what a strike portion should entail, however, this interpretation is not stated in the claims or the originally filed specification.

Regarding the limitation for the spoon shaped portion, the bends supporting the seat (4) define the spoon shaped portion. The claims fail to state that the golf ball rests directly on the

wire support. As such, a golf ball seated on the seat (4) that is supported by the wire meets the claim limitations.

Regarding the applicant's argument that Wei does not provide four bends in his wire nor does he provide a fold, attention is directed to the basis for the rejection set forth above. Applicant provides his own definition for "fold"; however, he does not provide any dictionary citation therefore. Also, applicant fails to provide any antecedent basis in the specification for the term "fold" and therefore, does not provide any positive definition for the term. Regarding the limitation for four bends in the wire, note the interpretation of the wire support of Wei stated above where it is found to comprise four sets of bends.

Regarding the applicant's argument that the height of the arm of the instant invention defines it as a strike portion, again, this argument is based upon applicant's own interpretation of what a strike portion should entail. However, this interpretation is not detailed either in the claims or in the specification.

Regarding the remarks directed to the reference to Cutts, these arguments are persuasive and the rejections over Cutts have been withdrawn.

Regarding the reference to Robbie, the applicant argues that the device of Wei is not combinable with the invention of Robbie since Robbie's device is height adjustable and the invention of Wei is not. However, this is not persuasive as the Robbie reference is cited merely for its teaching that it is well known in the golf art to provide self-supporting bases for teeing golf balls. The reference to Wei provides the shaft (1) and attachment means between the strike portion and the shaft. However, the shaft of Wei is not self-supporting. It would have been obvious to one of ordinary skill in the art to replace the shaft (1) with a self-supporting base (12,

14) in order to permit the tee of Wei to be used on hard surfaces that would not permit insertion of a golf tee.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

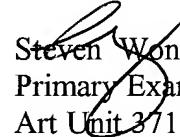
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Wednesday 7am-5:30pm.

Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
August 1, 2005

Examiner's notes

U.S. Patent

Dec. 31, 2002

Sheet 10 of 11

US 6,500,077 B1

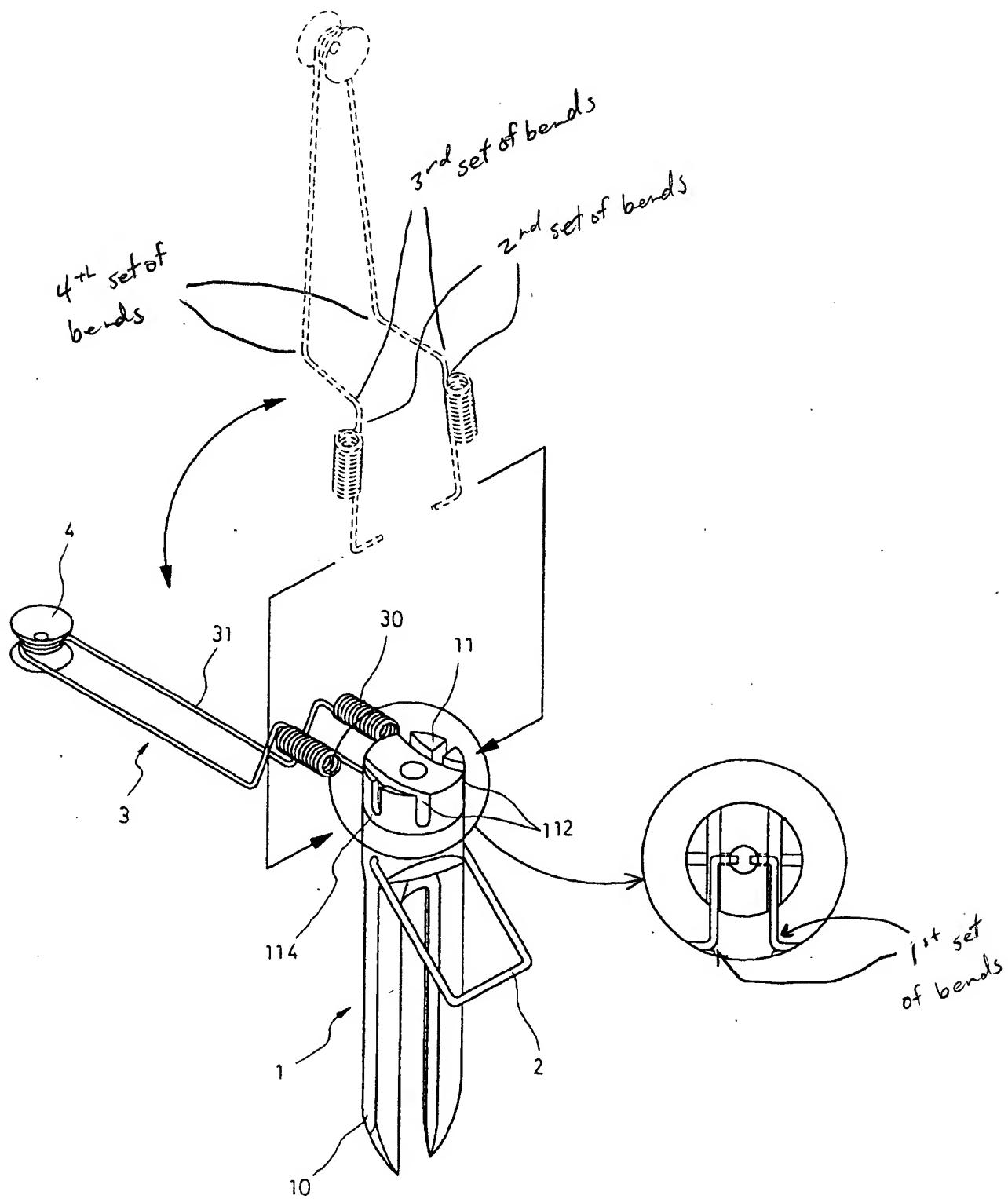


FIG. 10

Continuation of Attachment(s) 6). Other: Examiner's notations; Definition for "fold" ..

Definition for "fold"



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Word of the Day

mimicry

Definition: (noun)
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fold¹

top: isocline fold
center: overfold
bottom:
recumbent fold

fold 1 [PLAY AUDIO](#) (fold) [KEY](#)

VERB:

fold·ed, **fold·ing**, **folds**

VERB:

tr.

1. To bend over or double up so that one part lies on another part: *fold a sheet of paper*.
2. To make compact by doubling or bending over parts: *folded the laundry*; *folded the chairs for stacking*.
3. To bring from an extended to a closed position: *The hawk folded its wings*.
4. To bring from a compact to an extended position; unfold: *folded the ironing board down from the wall*; *folded out the map to see where we were*.
5. To place together and intertwine: *fold one's arms*.
6. To envelop or clasp; enfold: *folded his children to his breast*; *folded the check into the letter*.
7. To blend (a light ingredient) into a heavier mixture with a series of gentle turns: *folded the beaten egg*

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whites into the batter.

8.
 - a. Informal To discontinue operating; close: *They had to fold the company a year after they started it.*
 - b. Games To withdraw (one's hand) in defeat, as by laying cards face down on a table.
9. Geology To form bends in (a stratum of rock).

VERB:

intr.

1.
 - a. To become folded.
 - b. To be capable of being folded: *a bed that folds for easy storage.*
2. Informal To close, especially for lack of financial success; fail.
3. Games To withdraw from a game in defeat.
4. Informal
 - a. To give in; buckle: *a team that never folded under pressure.*
 - b. To weaken or collapse from exertion.

NOUN:

1. The act or an instance of folding.
2. A part that has been folded over or against another: *the loose folds of the drapery; clothes stacked in neat folds.*
3. A line or mark made by folding; a crease: *tore the paper carefully along the fold.*
4. A coil or bend, as of rope.
5. Chiefly British A hill or dale in undulating country.
6. Geology A bend in a stratum of rock.
7. Anatomy A crease or ridge apparently formed by folding, as of a membrane; a plica.

ETYMOLOGY:

Middle English *folden*, from Old English

fealdan, faldan; see *pel-*² in Indo-European roots

OTHER FORMS:

fold'a·ble (*Adjective*)

See Thesaurus

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